

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

HAROLD A. CROZIN,

Plaintiff,

v.

Case No. 2:10-cv-581

JUDGE GREGORY L. FROST

Magistrate Judge Mark R. Abel

CROWN APPRAISAL GROUP, Inc., et al.,

Defendants.

JOHN DOHERTY, et al.,

Plaintiffs,

v.

Case No. 2:10-cv-764

JUDGE GREGORY L. FROST

Magistrate Judge Mark R. Abel

CROWN APPRAISAL GROUP, Inc., et al.,

Defendants.

ORDER

This matter is before the Court upon the filing of Plaintiffs' January 3, 2012, Motion to Voluntarily Dismiss Certain Plaintiffs (Doc. # 141 in Case No. 2:10-cv-764). The Motion asks the Court to dismiss numerous plaintiffs from the action "as provided for by Rule 41(a)(2) F.R.C.P." In citing to Federal Rule of Civil Procedure 41(a)(2), however, Plaintiffs overlook that the Sixth Circuit has suggested, without conclusively deciding the issue, that dismissal of individual plaintiffs should be accomplished pursuant to Rules 15 and 21, not Rule 41. *See Letherer v. Alger Group, L.L.C.*, 328 F.3d 262, 265-66 (6th Cir. 2003), *recognized as overruled*

on other grounds in *Blackburn v. Oaktree Capital Mgmt.*, LLC, 511 F.3d 633, 636 (6th Cir. 2008). See also *AmSouth Bank v. Dale*, 386 F.3d 763, 778 (6th Cir. 2004).

In *Letherer*, the Sixth Circuit addressed its previous holding that Rule 41 is confined to the dismissal of only an entire *action* and cannot provide a mechanism through which select parties or claims can be dismissed. *Letherer*, 328 F.3d at 266. The *Letherer* court also recognized both that the court of appeals has been inconsistent in applying this rule and that at least five other circuits have interpreted Rule 41 less restrictively. *Id.* at 266 n.2. But although it appeared to question the narrow interpretation of Rule 41, the *Letherer* court did not resolve the issue to permit the piecemeal dismissal of parties or claims under the rule.

Accordingly, this Court denies Plaintiffs' Rule 41 motion, without prejudice to a motion by Plaintiffs to dismiss parties under Fed. R. Civ. P. 15 and 21.

IT IS SO ORDERED.

/s/ Gregory L. Frost
GREGORY L. FROST
UNITED STATES DISTRICT JUDGE